

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

THURSDAY, THE 12TH JULY 2007 / 21ST ASHADHA 1929

Crl.MC.No. 2235 of 2007()

(C.C.NO.934/2006 ON THE FILE OF JUDICIAL FIRST CLASS MAGISTRATE
COURT I- ALUVA.)

PETITIONER:

NAVAS, AGED 35 YEARS,
S/O AHAMED KUNJU, KALAPPURACKAL HOUSE,
NEAR AYURVEDA HOSPITAL, THOTTAKKATTUKARA,
ALUVA WEST VILLAGE.

BY ADV. SRI.V.K.VEERAVUNNY

RESPONDENTS:

KERALA STATE REPRESENTED BY THE
SUB INSPECTOR OF POLICE, ALUVA POLICE STATION,
REPRESENTED BY PUBLIC PROSECUTOR,
HIGH COURT OF KERALA.

BY PUBLIC PROSECUTOR ADV.SRI.M.S.BREEZ

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION
ON 12/07/2007, THE COURT ON THE SAME DAY PASSED THE
FOLLOWING:

R.BASANT, J
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Cr.M.C.No. 2235 of 2007
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Dated this the 12th day of July, 2007

ORDER

The petitioner along with co-accused faced indictment in a prosecution for offences punishable, inter alia, under Sec.506(ii) IPC, The petitioner/the 2nd accused was not available for trial. The co-accused faced trial. They were not found guilty and acquitted. After their acquittal, the petitioner has now come before this Court with the prayer that powers under Sec.482 may be invoked to quash the proceedings against him.

2. The learned counsel for the petitioner was requested to explain how in the light of the decision by the Full Bench in **Moosa Vs.Sub Inspector of Police** (2006(1) KLT 552), the petitioner can be held to be entitled to pray for quashing of proceedings. Except that the co-accused have been acquitted, I find no specific reason urged. It is seen from the judgment of acquittal of the co-accused produced as Annexure 1 that the PW1 in the case had supported the prosecution case about the incident that had taken place.

3. I am of the opinion, in these circumstances, that complicity of the petitioner did not at all come up for consideration in the proceedings against the co-accused. The mere fact that the co-accused have been acquitted cannot deliver any advantage to the

petitioner. The petitioner must certainly face trial on the allegations raised against him. Annexure I judgment cannot in any way help him to avoid the liability to face trial for the offences alleged against him. I find no merit in the prayer to invoke the extra ordinary inherent jurisdiction available with this Court to quash the proceedings against the petitioner.

4. This CrI.M.C is, in these circumstances, dismissed, but with the specific observation that if the petitioner surrenders before the learned Magistrate and applies for regular bail after giving sufficient prior notice to the Prosecutor in charge of the case, the learned Magistrate must proceed to pass appropriate orders on merits and expeditiously-on the date of surrender itself.

(R.BASANT, JUDGE)

sj